



OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H Holland
Election Officer

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December 10 1990

VIA UPS OVERNIGHT

George Askey
2626 Roosevelt Avenue
San Antonio TX 78214

Preston D. Ketchum
President
IBT Local Union 657
8214 Roughrider
San Antonio TX 78239

Re Election Office Case No P-026-LU657-SEC

Gentlemen

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election* revised August 1 1990 (Election Rules) In his protest Mr Askey alleges that on August 1 1990 he was ejected by management from the Yellow Freight terminal because he was distributing Ron Carey campaign literature He also alleges that the Recording Secretary of the Local Union Ethel Honstein has removed campaign literature from bulletin boards and break rooms at Yellow Freight

The investigation shows the following Mr Askey is not an employee of Yellow Freight He has for some years distributed TDU literature at Yellow Freight leaving newspapers in the drivers' break room and posting literature on the bulletin board There is some evidence that Mr Askey has also solicited in the past on the loading docks and the ramp in back There is no evidence that any such solicitation was known to Terminal Manager Bob Kelley

On August 1 1990 Mr Kelley noticed Mr Askey on the ramp When he learned that Askey was not an employee he asked him to leave This request by the manager was consistent with a Yellow Freight policy that visitors are not allowed to walk around the docks because of the possibility of theft or injury

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While there is some evidence of Yellow Freight retirees congregating in the area of the docks from time to time, there is no evidence of Yellow Freight consistently tolerating visitors to the work areas of the docks and the ramps.

The Election Officer will not require an employer to make work areas or work time available for campaign purposes. Since it appears that in this case Yellow Freight prohibited Mr. Askey access to a work area, there is no violation of the Election Rules, as to this portion of Mr. Askey's protest. Accordingly, the protest is denied.

The Election Officer will, however, entertain an additional protest if evidence should be presented that the Employer discriminated in applying its rule denying visitors access to the docks and ramps subsequent to August 1, 1990.

With respect to the allegation that literature was removed from the break room, by the Local Union Recording Secretary, the evidence is inconclusive. Therefore the Election Officer is unable to determine that the *Rules for the IBT International Union and Officer Election* have been violated, and the protest is denied.

However, it appears that some confusion may exist among certain members of Local 657 with respect to the posting on bulletin boards of campaign materials. Therefore, pursuant to his authority under the *Rules* and the March 14, 1989 *Consent Decree*, and in particular § 12D, page 15 of that Order, the Election Officer has directed that IBT Local Union 657 post the enclosed notice at Yellow Freight Lines, at its San Antonio, Texas facility.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D. C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

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Very truly yours,


Michael H. Holland

MHH/mjv

cc

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NOTICE TO ALL MEMBERS OF IBT LOCAL UNION 657
FROM MICHAEL H. HOLLAND, ELECTION OFFICER, IBT

You have the right to participate in campaign activities on behalf of candidates for delegate and alternate delegate candidates to the 1991 IBT Convention

You have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.

You have the right to post campaign materials on all "general purpose" bulletin boards that have been used in the past for postings other than or in addition to official Company or Union notices.

Protests regarding campaign postings are to be filed with the Election Officer at the above address. Copies of the *Rules* regarding campaigning and other election rules can be obtained from the Election Officer by calling the toll-free telephone number listed above.



MICHAEL H. HOLLAND
Election Officer, IBT

This is an official notice and must remain posted for thirty consecutive days from the day of the posting, and must not be altered, defaced, or covered by any other material.